

AMENDED IN ASSEMBLY MAY 7, 2003  
AMENDED IN ASSEMBLY APRIL 21, 2003  
AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1247**

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**Introduced by Assembly Member Aghazarian**

February 21, 2003

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An act to amend, *repeal, and add* Section 25247 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1247, as amended, Aghazarian. Hazardous waste facility: postclosure.

(1) Existing law requires the owner or operator of a hazardous waste facility to submit a hazardous waste facility closure and postclosure plan to the Department of Toxic Substances Control and to the California regional water quality control board for the region in which the facility is located. The department is required to review the plan and to approve the plan if the department makes specified findings. A violation of the hazardous waste control law, including any requirements issued or adopted pursuant to the hazardous waste control law, is a crime.

This bill would require the department to impose the requirements of a hazardous waste facility postclosure plan by issuing a postclosure permit, issuing an enforceable order, or entering into an enforceable agreement. The bill would require the postclosure plan imposed or modified pursuant to an enforcement order, a permit, or an agreement

to be approved in compliance with the California Environmental Quality Act and would require the department, before approving or modifying a hazardous waste facility postclosure plan, to provide meaningful opportunity for public comment. The bill would require the owner or operator who submits the plan for approval and who is issued an enforceable order or enters into an enforceable agreement to pay specified fees to reimburse the department for its costs.

The bill would authorize the department to take specified actions, in addition to other remedies available under state law, to enforce a postclosure plan imposed in the form of an enforcement order or enforcement agreement.

*The bill would repeal these provisions on January 1, 2007.*

Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25247 of the Health and Safety Code is
- 2 amended to read:
- 3 25247. (a) The department shall review each plan submitted
- 4 pursuant to Section 25246 and shall approve the plan if it finds that
- 5 the plan complies with the regulations adopted by the department
- 6 and complies with all other applicable state and federal
- 7 regulations.
- 8 (b) The department shall not approve the plan until at least one
- 9 of the following occurs:
- 10 (1) The plan has been approved pursuant to Section 13227 of
- 11 the Water Code.
- 12 (2) Sixty days expire after the owner or operator of an interim
- 13 status facility submits the plan to the department. If the department
- 14 denies approval of a plan for an interim status facility, this 60-day



1 period shall not begin until the owner or operator resubmits the  
2 plan to the department.

3 (3) The director finds that immediate approval of the plan is  
4 necessary to protect public health, safety, or the environment.

5 (c) Any action taken by the department pursuant to this section  
6 is subject to Section 25204.5.

7 (d) (1) To the extent consistent with the federal act, the  
8 department shall impose the requirements of a hazardous waste  
9 facility postclosure plan on the owner or operator of a facility  
10 through the issuance of an enforcement order, entering into an  
11 enforceable agreement, or issuing a postclosure permit.

12 (A) A hazardous waste facility postclosure plan imposed or  
13 modified pursuant to an enforcement order, a permit, or an  
14 enforceable agreement shall be approved in compliance with the  
15 California Environmental Quality Act (Division 13 (commencing  
16 with Section 21000) of the Public Resources Code).

17 (B) Before the department initially approves or significantly  
18 modifies a hazardous waste facility postclosure plan pursuant to  
19 this subdivision, the department shall provide a meaningful  
20 opportunity for public involvement, which, at a minimum, shall  
21 include public notice and an opportunity for public comment on  
22 the proposed action.

23 (C) For the purposes of subparagraph (B), a “significant  
24 modification” is a modification that the department determines  
25 would constitute a class 3 permit modification if the change were  
26 being proposed to a hazardous waste facilities permit. In  
27 determining whether the proposed modification would constitute  
28 a class 3 modification, the department shall consider the similarity  
29 of the modification to class 3 modifications codified in Appendix  
30 I of Chapter 20 (commencing with Section 66270.1) of Division  
31 4.5 of Title 22 of the California Code of Regulations. In  
32 determining whether the proposed modification would constitute  
33 a class 3 modification, the department shall also consider whether  
34 there is significant public concern about the proposed  
35 modification, and whether the proposed change is so substantial or  
36 complex in nature that the modification requires the more  
37 extensive procedures of a class 3 permit modification.

38 (2) This subdivision does not limit or delay the authority of the  
39 department to order any action necessary at a facility to protect  
40 public health or safety.

(3) If the department imposes a hazardous waste facility postclosure plan in the form of an enforcement order or enforceable agreement, in lieu of issuing or renewing a postclosure permit, the owner or operator who submits the plan for approval shall pay the same fee specified in subparagraph (F) of paragraph (1) of subdivision (d) of Section 25205.7, and upon commencement of the postclosure period, shall pay the fee required by paragraph (9) of subdivision (c) of Section 25205.4.

(4) In addition to any other remedy available under state law to enforce a postclosure plan imposed in the form of an enforcement order or enforcement agreement, the department may take any of the following actions:

(A) File an action to enjoin a threatened or continuing violation of a requirement of the enforcement order or agreement.

(B) Require compliance with requirements for corrective action or other emergency response measures that the department deems necessary to protect human health and the environment.

(C) Assess or file an action to recover civil penalties and fines for a violation of a requirement of an enforcement order or agreement.

~~SEC. 2.—~~

*(e) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.*

*SEC. 2. Section 25247 is added to the Health and Safety Code, to read:*

*25247. (a) The department shall review each plan submitted pursuant to Section 25246 and shall approve the plan if it finds that the plan complies with the regulations adopted by the department and complies with all other applicable state and federal regulations.*

*(b) The department may not approve the plan until at least one of the following occurs:*

*(1) The plan has been approved pursuant to Section 13227 of the Water Code.*

*(2) Sixty days expire after the owner or operator of an interim status facility complies with Section 25246. If the department denies approval of a plan for an interim status facility, this 60-day period may not begin until the owner or operator resubmits the plan in compliance with Section 25246.*

1     (3) *The director finds that immediate approval of the plan is*  
2     *necessary to protect public health, safety, or the environment.*

3     (c) *Any action taken by the department pursuant to this section*  
4     *is subject to Section 25204.5.*

5     (d) *This section shall become operative on January 1, 2007.*

6     SEC. 3. No reimbursement is required by this act pursuant to  
7     Section 6 of Article XIII B of the California Constitution because  
8     the only costs that may be incurred by a local agency or school  
9     district will be incurred because this act creates a new crime or  
10    infraction, eliminates a crime or infraction, or changes the penalty  
11    for a crime or infraction, within the meaning of Section 17556 of  
12    the Government Code, or changes the definition of a crime within  
13    the meaning of Section 6 of Article XIII B of the California  
14    Constitution.

